

REMARKS/ARGUMENTS

Claims 1-8 are present in this application. By this Amendment, claims 1, 7 and 8 have been amended. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Claims 1, 3 and 5-8 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,703,344 to Bezy et al. in view of U.S. Patent No. 5,483,445 to Pickering et al. This rejection is respectfully traversed.

An exemplary objective of the present invention is to enable consumers to enter transactions with a vendor while ensuring the vendor that sufficient consumer funds are available. Unlike conventional systems, however, the consumers can secure the deposit without actually providing funds or an instrument of the funds to the vendor.

Bezy describes a point of transaction funds confirmation system where a draft such as a check presented by a payor to a payee is confirmed against the account on which the draft is drawn. After the check is presented to the payee, a confirmation request is submitted by the payee to the payor bank through a network, and the payor bank verifies the account identifier and compares the amount of the transaction to an amount of funds available in the account corresponding to the account identifier. Bezy describes that the payor bank processor then returns a response record indicating whether or not sufficient funds are available. Bezy describes that if the record type is funds guarantee record type, then the payor bank will generally place a hold on funds sufficient to cover the draft.

As discussed previously, Bezy lacks the claimed step wherein the participant establishes a consumer funding account by depositing funds in the consumer funding account, where the consumer funding account is administered by the qualifying system. In this context, the Office

Action references Bezy describing an account “controlled by the payee and maintained by a solvent . . . financial institution.” As recognized in the Office Action, the reference to a “financial institution” refers to an account controlled by the payee. The payee according to the system defined in claim 1 is the vendor. In claim 1, it is the same qualifying system that administers the consumer funding account (of the participant) that is accessed by the participant to secure the deposit for the transaction. The Office Action seems to reference different qualifying systems with regard to the account controlled by the payee (vendor) and the consumer’s checking account or the like. Applicant submits that this characterization of Applicant’s claims is improper. Indeed, the merchant system in Bezy for verifying available funds is not capable of administering a consumer funding account.

The Office Action contends that Bezy discloses “accessing the qualifying system” since “the act of presenting the check to the point-of-sale (POS) causes the participant to access the qualifying system by nature of the check presented.” In the method defined in claim 1, however, in no instance does the participant (consumer) present a check or other instrument of funds to the vendor. This is an important advantage of the system of the invention. In an effort to clarify this distinction, claim 1 has been amended to recite that the reserving step is practiced “without the participant providing the funds or any instrument of the funds to the vendor.” Support for this subject matter can be found in the specification at, for example, page 4, lines 1-5; page 15, line 15 - page 16, line 4; page 16, lines 10-18; and page 17, line 14 - page 18, line 7. Although Applicant disagrees with the Office Action’s characterization of the Bezy patent, even assuming the characterization is accurate, the purported “access” to the qualifying system requires the presentation of a check by the consumer.

The Office Action additionally refers to Pickering to show a known use of a computer to make payments. The Office Action references methods described in Pickering that serves as “means of effecting financial transactions.” The method defined in claim 1, however, does not amount to effecting a financial transaction. Rather, the method is directed to qualifying a participant in a transaction. The computer processing described in Pickering relates to making payments for goods and services using a computer. In the method defined in claim 1, however, the qualifying system reserves a portion of funds deposited in a consumer funding account without the participant providing the funds or any instrument of the funds to the vendor. At least this subject matter is also lacking in the Pickering patent.

Applicant thus submits that the rejection of claim 1 is misplaced.

Claim 7 defines related subject matter in the context of a computer system for effecting qualifying of a participant over a global network in a transaction requiring a transfer of funds from the participant to a vendor. As discussed previously, if it is assumed that the structures for reading account information from a draft or check and for submitting a verification request meet the claimed system server, Applicant submits that in no instance would such structure administer a consumer funding account. Claim 7 additionally recites that upon access to the system server by the participant, the system server determines whether the participant has established a consumer funding account In the Bezy system, as discussed above, in no instance does the purchaser access a system server. Claim 7 additionally has been amended to recite that the system server reserves the portion of the funds without the participant providing the funds or any instrument of the funds to the vendor. As discussed above, this subject matter is also lacking in Bezy and Pickering, taken singly or in combination. Applicant thus submits that the rejection of claim 7 is misplaced.

Claim 8 defines subject matter related to claim 1 in the context of a computer readable medium. Claim 8 has been amended to include related subject matter, defining means for the qualifying system to reserve a portion of the funds deposited in the consumer funding account without the participant providing the funds or any instrument of the funds to the vendor, according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor Applicant submits that claim 8 is allowable for similar reasons to those discussed above with regard to claim 1.

With regard to the dependent claims, Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim.

Withdrawal of the rejection is requested.

Claims 2 and 4 were rejected under 35 U.S.C. §103(a) over Bezy in view of Pickering and U.S. Patent No. 3,147,028 to Scully. This rejection is respectfully traversed.

With regard to claim 2, Applicant submits that the Scully patent does not correct the shortcomings noted above with regard to Bezy, Pickering and independent claim 1. As such, Applicant submits that dependent claim 2 is allowable at least by virtue of its dependency on an allowable independent claim.

Although the Office Action contains new grounds of rejection (in view of Pickering), the rejection of claim 4 is generally repeated from the prior Office Action. The current Office Action does not address the arguments with regard to claim 4, which remain pertinent despite the new grounds of rejection. As noted previously, claim 4 expands on the reserving step performed by the qualifying system by reserving a first portion of the funds deposited in the consumer funding account corresponding to a required deposit and reserving a second portion of the funds deposited in the consumer funding account corresponding to an amount of funds required to

complete the transaction. In this context, the Office Action refers to previously-known teachings for checking accounts that require a minimum balance. According to the Office Action, “the Examiner construes a minimum balance to connote the claimed ‘required deposit’ because, for example, the ‘special checking account’ could not be opened without the required minimum balance which would be provided by a ‘minimum deposit.’” Claim 4, however, does not reference a minimum balance or minimum deposit for participating in a transaction. Rather, as described in the specification, in certain transactions, a seller may require the purchaser to authorize/hold a deposit amount to participate in the transaction. The deposit amount can be reserved in the consumer funding account to qualify the purchaser. The seller may also require that the purchaser qualify the remaining amount due to complete the transaction. By reserving separate portions of the consumer funding account, the seller is provided with access to liquidated damages in the event that the transaction is not completed. For example, the purchaser may lose only the deposit amount in some instances in the event of default, depending on specified transaction parameters. The existence of a minimum balance required to open or maintain a bank account does not amount to the claimed methodology wherein two separate portions of the consumer funding account are reserved according to specified transaction parameters. That is, Scully lacks at least step (c) in claim 4 wherein step (c) is practiced by reserving a first portion of the funds deposited in the consumer funding account corresponding to a required deposit and reserving a second portion of the consumer funding account corresponding to an amount of funds required to complete the transaction. A minimum balance or minimum deposit hardly amounts to “reserving” any portion of an account, much less two separate portions of an account as claimed.

Withdrawal of the rejection is requested.

UNDERSTEIN
Appl. No. 09/617,065
December 9, 2011

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 14-1140.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Alan M. Kagen/
Alan M. Kagen
Reg. No. 36,178

AMK:jl
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100